

Union Calendar No. 311

105TH CONGRESS
2D SESSION

H. R. 2604

[Report No. 105-556]

To amend title 11, United States Code, to protect certain charitable contributions, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 2, 1997

Mr. PACKARD (for himself, Mr. GINGRICH, Mr. FAZIO of California, Mr. ARMEY, Mr. LEWIS of Georgia, Mr. WATTS of Oklahoma, Mr. JACKSON of Illinois, Mr. LIVINGSTON, Mr. BOEHNER, Mr. MCKEON, Mr. CUNNINGHAM, Mr. HANSEN, Mr. FLAKE, Mr. HERGER, Mr. CRAPO, Mr. DOOLITTLE, Mr. STUMP, Mr. CANNON, Mr. TRAFICANT, Mr. BONILLA, Mr. STENHOLM, Mr. SOUDER, Mr. YOUNG of Alaska, Mr. SHIMKUS, Mr. WOLF, Mr. SAWYER, Mr. SAM JOHNSON of Texas, Mr. HUNTER, Mr. ISTOOK, Mr. COX of California, Mr. FILNER, Mr. EWING, Mr. CHRISTENSEN, Mr. REDMOND, Mr. GALLEGLY, Mr. LEWIS of California, Mr. BARR of Georgia, Mr. DREIER, Mr. CRAMER, Mr. TAYLOR of Mississippi, Mr. WELDON of Florida, Mr. MILLER of California, Mr. BERMAN, Mr. CAPPS, Mr. WATKINS, Mr. BRADY, Mrs. LINDA SMITH of Washington, Mr. ROHRBACHER, Mr. COOK, Mr. GUTIERREZ, Mr. PASTOR, Mr. BILBRAY, Mr. LAHOOD, Mr. PITTS, Mr. ORTIZ, Mr. WALSH, Mr. MCHUGH, Mr. HOEKSTRA, Mr. BUNNING, Mr. CONDIT, Mr. SMITH of New Jersey, Mrs. CLAYTON, Mr. BROWN of California, Mr. RADANOVICH, Mr. SALMON, Mr. SMITH of Michigan, and Mr. HALL of Ohio) introduced the following bill; which was referred to the Committee on the Judiciary

JUNE 3, 1998

Additional sponsors: Mr. DELAY, Mr. RAMSTAD, Mr. UNDERWOOD, Mr. LANTOS, Mr. BARTLETT of Maryland, Mr. HOBSON, Mr. PARKER, Mr. ABERCROMBIE, Mr. HEFNER, Mr. CALLAHAN, Mr. FARR of California, Mr. GILCHREST, Mr. MCDADE, Mr. EVERETT, Mrs. EMERSON, Mrs. MYRICK, Mr. RYUN, Mr. PICKERING, Mr. MANZULLO, Mr. FOLEY, Mr. INGLIS of South Carolina, Mr. SPENCE, Ms. DANNER, Mr. HULSHOF, Mr. LARGENT, Mr. HAYWORTH, Mr. CALVERT, Mr. YATES, Mr. RAHALL, Mr.

PICKETT, Ms. FURSE, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. CLYBURN, Ms. MILLENDER-McDONALD, Mr. SHAYS, Mr. BOEHLERT, Mr. KIM, Mr. NEAL of Massachusetts, Mr. KLINK, Mr. MURTHA, Mr. HOLDEN, Ms. KAPTUR, Mr. KANJORSKI, Mr. SHAW, Ms. JACKSON-LEE, Mr. TAYLOR of North Carolina, Mr. WELLER, Mr. TORRES, Mr. FRANKS of New Jersey, Mr. GOODLATTE, Mr. TIAHRT, Mr. PAPPAS, Mr. RIGGS, Mr. PORTER, Mr. BARRETT of Nebraska, Mr. CANADY of Florida, Mr. TALENT, Mr. CAMPBELL, Mr. BENTSEN, Mr. SNOWBARGER, Mr. TOWNS, and Mr. BLUNT

Deleted sponsor: Mr. BERMAN (added October 2, 1997; deleted February 11, 1998)

JUNE 3, 1998

Committed to the Committee of the Whole House on the State of the Union
and ordered to be printed

A BILL

To amend title 11, United States Code, to protect certain
charitable contributions, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Religious Liberty and
5 Charitable Donation Protection Act of 1997”.

6 **SEC. 2. DEFINITIONS.**

7 Section 548(d) of title 11, United States Code, is
8 amended by adding at the end the following:

9 “(3) In this section, the term ‘charitable contribution’
10 means a charitable contribution, as that term is defined
11 in section 170(c) of the Internal Revenue Code of 1986,
12 if that contribution—

13 “(A) is made by a natural person; and

1 “(B) consists of—

2 “(i) a financial instrument (as that term is
3 defined in section 731(c)(2)(C) of the Internal
4 Revenue Code of 1986); or

5 “(ii) cash.

6 “(4) In this section, the term ‘qualified religious or
7 charitable entity or organization’ means—

8 “(A) an entity described in section 170(c)(1) of
9 the Internal Revenue Code of 1986; or

10 “(B) an entity or organization described in sec-
11 tion 170(c)(2) of the Internal Revenue Code of
12 1986.”.

13 **SEC. 3. TREATMENT OF PREPETITION QUALIFIED CHARI-**
14 **TABLE CONTRIBUTIONS.**

15 (a) IN GENERAL.—Section 548(a) of title 11, United
16 States Code, is amended—

17 (1) by inserting “(1)” after “(a)”;

18 (2) by striking “(1) made” and inserting “(A)
19 made”;

20 (3) by striking “(2)(A)” and inserting “(B)(i);

21 (4) by striking “(B)(i)” and inserting “(ii)(I)”;

22 (5) by striking “(ii) was” and inserting “(II)
23 was”;

24 (6) by striking “(iii)” and inserting “(III)”;

25 and

1 (7) by adding at the end the following:

2 “(2) A transfer of a charitable contribution to a
3 qualified religious or charitable entity or organization shall
4 not be considered to be a transfer covered under para-
5 graph (1)(B) in any case in which—

6 “(A) the amount of that contribution does not
7 exceed 15 percent of the gross annual income of the
8 debtor for the year in which the transfer of the con-
9 tribution is made; or

10 “(B) the contribution made by a debtor exceed-
11 ed the percentage amount of gross annual income
12 specified in subparagraph (A), if the transfer was
13 consistent with the practices of the debtor in making
14 charitable contributions.”.

15 (b) TRUSTEE AS LIEN CREDITOR AND AS SUCCESSOR
16 TO CERTAIN CREDITORS AND PURCHASERS.—Section
17 544(b) of title 11, United States Code, is amended—

18 (1) by striking “(b) The trustee” and inserting
19 “(b)(1) Except as provided in paragraph (2), the
20 trustee”; and

21 (2) by adding at the end the following:

22 “(2) Paragraph (1) shall not apply to a transfer of
23 a charitable contribution (as that term is defined in sec-
24 tion 548(d)(3)) that is not covered under section
25 548(a)(1)(B), by reason of section 548(a)(2).”.

1 (c) CONFORMING AMENDMENTS.—Section 546 of
 2 title 11, United States Code, is amended—

3 (1) in subsection (e)—

4 (A) by striking “548(a)(2)” and inserting
 5 “548(a)(1)(B)”; and

6 (B) by striking “548(a)(1)” and inserting
 7 “548(a)(1)(A)”;
 8 (2) in subsection (f)—

9 (A) by striking “548(a)(2)” and inserting
 10 “548(a)(1)(B)”; and

11 (B) by striking “548(a)(1)” and inserting
 12 “548(a)(1)(A)”; and

13 (3) in subsection (g)—

14 (A) by striking “section 548(a)(1)” each
 15 place it appears and inserting “section
 16 548(a)(1)(A)”; and

17 (B) by striking “548(a)(2)” and inserting
 18 “548(a)(1)(B)”.

19 **SEC. 4. TREATMENT OF POST-PETITION CHARITABLE CON-**
 20 **TRIBUTIONS.**

21 (a) CONFIRMATION OF PLAN.—Section
 22 1325(b)(2)(A) of title 11, United States Code, is amended
 23 by inserting before the semicolon the following: “, includ-
 24 ing charitable contributions (that meet the definition of
 25 ‘charitable contribution’ under section 548(d)(3)) to a

1 qualified religious or charitable entity or organization (as
2 that term is defined in section 548(d)(4)) in an amount
3 not to exceed 15 percent of the gross income of the debtor
4 for the year in which the contributions are made”.

5 (b) DISMISSAL.—Section 707(b) of title 11, United
6 States Code, is amended by adding at the end the follow-
7 ing: “In making a determination whether to dismiss a case
8 under this section, the court may not take into consider-
9 ation whether a debtor has made, or continues to make,
10 charitable contributions (that meet the definition of ‘chari-
11 table contribution’ under section 548(d)(3)) to any quali-
12 fied religious or charitable entity or organization (as that
13 term is defined in section 548(d)(4)).”.

14 **SEC. 5. APPLICABILITY.**

15 This Act and the amendments made by this Act shall
16 apply to any case brought under an applicable provision
17 of title 11, United States Code, that is pending or com-
18 menced on or after the date of enactment of this Act.

19 **SEC. 6. RULE OF CONSTRUCTION.**

20 Nothing in the amendments made by this Act is in-
21 tended to limit the applicability of the Religious Freedom
22 Restoration Act of 1993 (42 U.S.C. 2002bb et seq.).

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